

Appl. No. 10/527,416  
Amdt. dated Jan. 8, 2009  
Reply to final Office action of Oct. 22, 2008

### REMARKS

Based upon the amendments set forth herein, Applicants urge that the claims now pending in the application are not obvious under the provisions of 35 USC § 103. Accordingly, all claims are now believed to be in condition for allowance.

If the Examiner contends that there are any remaining unresolved issue in any of the pending claims, the Examiner is urged to telephone Peter L. Michaelson, Esq. at 732-542-7800 so that appropriate arrangements can be made to resolve any remaining issues as expeditiously as possible.

### Claim Amendments

Claims 1-3 and 5-10 are presently in the application.

### Rejections under 35 USC § 103

Claims 1-3 and 5-10 stand rejected under 35 USC § 103(a) as being unpatentable over Berger in view of Ghosh and further in view of Babayan for reasons of record.

The Examiner urges that Ghosh employs enzymatic transesterification on palm stearin. The Examiner maintains that the claims are directed to a product and not a method of trans-esterifying fact. Additionally, it is urged that

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the claims are directed to a product and not a method of transesterifying fat. Additionally Ghosh is relied upon to show that transesterification of fats and oils with enzymes is known in the art and the fact that Ghosh may have treated a different fat is not viewed as constituting unobviousness. The contentions of the Examiner are believed to be incorrect for the following reasons.

The Examiner's attention is first drawn to the fact that the amendment to claim 1 herein is specifically based upon the disclosure set forth on lines 14-25 of page 12 of the specification.

Applicants' invention describes a low melting transesterified fat and oil having an open tube melting point under increasing temperatures ranging from 20 to 32 degrees Centigrade prepared by using a palm-based fat and oil and a liquid state fat and oil at a specific ration thereof, so resulting in the preparation of a fat and oil composition for spreads that has good spreadability but does not become too firm when refrigerated.

In contract thereto, Ghosh discloses transesterified fats and oils prepared using a rice bran oil and high melting palmstearin at a ratio of 6:4. Accordingly, the open-tube melting point under increasing temperature of the transesterified fats and oils of the patentee are 37.7 degrees Centigrade, 38.9 degrees Centigrade and 39.6 degrees Centigrade. Thus, the present invention markedly distinguishes from the teachings of the

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patentee. The present invention provides as described a fat and oil composition for spreads that has good spreadability but does not become too firm when refrigerated by using a transesterified fat and oil having an open-tube melting point under increasing temperature in the range of 20 to 32 degrees Centigrade. The open tube melting point under increasing temperature has been achieved by using a palm-based fat and oil and a liquid state fat and oil at a specific ratio.

The transesterified fat and oil prepared by Applicants has an open tube melting point under increasing temperature in the range of 20 to 32 degrees Centigrade and is prepared using 45 to 75 parts by mass of the liquid state fat and oil. However, the use of a rice bran oil and a high melting palmstearin are used at a ratio of 6:4 as in Ghosh, the open tube melting point under increasing temperature of the resulting transesterified fat and oil is higher than that of the transesterified fat and oil of applicants, and a fat and oil composition prepared using such a transesterified fat and oil as described by the reference becomes too firm when refrigerated and its spreadability is too low.

The present invention achieves the above-identified advantageous effects by using the transesterified fat and not disclosed in the reference. Accordingly, it is obvious that the present invention

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achieves these advantageous effects by using the fat and oil of component (b) of claim 12 which cannot be obtained by Ghosh even if combined with the other cited prior art.

Accordingly, it is urged that the rejection be withdrawn and the application passed to issue.

Conclusion

In light of the foregoing, it is urged that the rejection be withdrawn and the application passed to issue.

Respectfully submitted,

January 8, 2009



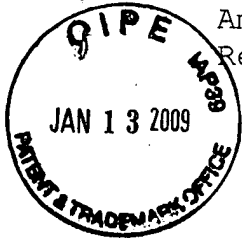
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I hereby certify that this correspondence is being deposited on **January 9, 2009** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*John L. Michaelson*  
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